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EXAMINER

FORD, JOHN K

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3784

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 7-15 and 39, drawn to an apparatus hollow conduits potted in headers and the headers fused to structures interconnected by slots on an interior surface of a sleeve or thermoplastic housing.

Group II, claim(s) 16-20, 37, 38 and 40, drawn to an apparatus having coextruded double layer tubes potted in headers fused an interior surface of a sleeve or thermoplastic housing.

Group III, claim(s) 21-24, drawn to a method of treating a fluid using the apparatus of claim 7.

Group IV, claim(s) 21-24, drawn to a method of treating a fluid using the apparatus of claim 16.

Group V, claim(s) 25-29, drawn to a fluid handing system incorporating the apparatus of claim 7.

Group VI, claim(s) 25-29, drawn to a fluid handing system incorporating the apparatus of claim 16.

The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical features that are common to all of the independent claims (i.e. claims 7, 16, 21 and 25) are known in the prior art. See WO 03/029744 and Cheng et al USP 6,663,745 assigned to Mykrolis Corporation of Billerica MA.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Housing/sleeve species:

First species wherein the tubes are potted and fused to opposite ends of a housing with end caps (for example as disclosed in Figure 1A)

Second species wherein the tubes are potted and fused to two different sleeves at opposite ends (for example as shown in Figure 1B)

Third species wherein the tubes are potted and fused to opposite ends of a housing without end caps (for example as disclosed in Figure 1C)

Tube species:

Non co-extruded tubes (e.g. Figure 3 at 318)

Co-extruded tubes (e.g. Figure 7D and Figure 3 at 320)

Groove/Channel species:

First species of Figure 2A

Second species of Figure 2B

Third species of Figure 7A-7D

Fourth species of Figure 9

Fifth species of Figure 10

Apparatus species:

First species of apparatus of Figure 4,

Second species of apparatus of Figure 5

Third species of apparatus of Figure 6

And an in-determinant number of variations of the aforementioned species (that are not currently illustrated) discussed primarily beginning at line 0060 of the specification. Applicant can also choose one of these un-illustrated species as well (i.e. one Housing/sleeve species, one Tube species, one Groove/Channel species and one Apparatus species). In the event that applicant elects one Housing/sleeve species, one Tube species, one Groove/Channel species or one Apparatus species that is currently not illustrated, a drawing showing it is required in response to this action.

Applicant is required, in reply to this action, to elect a single species from each of the aforementioned categories (one Housing/sleeve species, one Tube species, one Groove/Channel species and one Apparatus species) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added.

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An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise require all the limitations of an allowed generic claim. Currently, the following claim(s) appear to be generic: claims 7 and 16. As stated above, the special technical features that are common to the generic independent claims (i.e. claims 7, 16) are known in the prior art. See WO 03/029744 and Cheng et al USP 6,663,745 assigned to Mykrolis Corporation of Billerica MA. The requirement for elections of these species is hence proper.

REQUIREMENT FOR UNITY OF INVENTION

As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are

claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

WHEN CLAIMS ARE DIRECTED TO MULTIPLE CATEGORIES OF INVENTIONS

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) A product and process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
- (4) A process and an apparatus or means specifically designed for carrying out the said process; or
- (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species.

Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Ford whose telephone number is 571-272-4911. The examiner can normally be reached on Mon.-Fri. 9-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Jules can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John K. Ford/
Primary Examiner, Art Unit 3784